

MEMORANDUM OF UNDERSTANDING

between the

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Indian Affairs

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

SHOSHONE AND ARAPAHOE TRIBES
Joint Business Council

and

FREMONT COUNTY, WY
Board of Fremont County Commissioners

concerning

Agency and Tribal Cooperation on the Wind River Gas Development
Environmental Impact Statement

I. Purpose

The Bureau of Indian Affairs (BIA) Wind River Agency request the Shoshone and Arapahoe Tribes Joint Business Council (JBC), the Bureau of Land Management (ELM). Lander Field Office, and the Board of Fremont County Commissioners (Board) to be Cooperating Agencies in the Environmental Impact Statement (EIS) being prepared to analyze and plan for oil and gas development on tribal trust and private lands. The planning area for this development is located in the Pavillion, Muddy Ridge, and Sand Mesa areas, Fremont County, Wyoming.

The writing of the EIS will be contracted to Buys and Associates, Inc., a third party consultant (Contractor). The EIS must comply with the provisions of the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. Sec. 4321 and all subsequent regulations implementing the act (see Council on Environmental Quality (CEQ)) regulations, 40 CFR Part 1500-1S08, and Department of the Interior requirements listed in Department Manual 516 "Environmental Quality.").

II. Objective

The purpose of this Memorandum of Understanding (MOU) is to establish an agreement between the BIA, BLM, JBC, and the Board regarding the roles and responsibilities of the BLM, JBC, and the Board during the NEPA process. The BIA, Wind River Agency will be the lead federal agency and the BLM, JBC, and Board will be cooperating agencies on the project.

The cooperating agencies understand that the following information is applicable to them:

1. Each of the agencies has been appointed as a cooperating agency because it has specific areas of expertise that will benefit the preparation of the EIS. Each cooperating agency has agreed to provide data within their area(s) of expertise- attend meetings, and review documents. The cooperating agencies will perform all tasks outlined in this MOU at their own expense.

2. Each cooperating agency's areas of expertise are as follows.

Shoshone and Arapaho Tribes

- Socio-economic
- Environmental
- Cultural
- Transportation
- Knowledge of the federal laws and regulations governing the development of oil and gas leases and agreements on Indian Lands

Bureau of Land Management

- Special expertise in the areas of oil and gas development, including:
 - a. Information on known and potential oil and gas resources within the defined development area, including providing assistance in reviewing reasonable foreseeable development scenarios.
 - b. Knowledge of the federal laws and regulations governing the development of oil and gas leases and agreements on Indian Lands.
 - c. Knowledge of construction methodology and environmental impact mitigation associated with oil and gas drilling operations.
- Socio-economic
- Environmental
- Cultural
- Transportation

Board of Fremont County Commissioners

- Socio-economic
- Transportation

3. The agencies understand that their cooperating agency status does not confer to them any special authority to change, edit, or veto all or part of the document.

4. In cases where a Tribe or other cooperating agency provides information it considers confidential, the RIA and its contractor will work with a Tribe or other cooperating agency to present the information in a manner that protects the rights of that cooperating agency before sharing the information necessary for the environmental analysis with the other cooperating agencies. The cooperating agencies agree that such information is to be held confidential and kept separate from the information necessary for the environmental analysis. Should any distribution of confidential information occur, the party receiving it will return the information to the

BIA and the party releasing the information may have its cooperating agency status terminated.

Parties to this MOU will have access to all information necessary for their cooperating agency participation in the environmental analysis to the extent permitted by applicable law. The parties agree that all records or information requested of any party by another party shall remain the property of the releasing party for public record disclosure purposes and will not be disclosed, transmitted, or otherwise divulged until the BIA releases the information for public review or comment. Any breach of this provision may result in termination of this MOU.

5. The BIA possesses sole authority to direct the actions of the Contractor.
6. BIA is responsible for all substantive decisions involving the EIS and the Wind River Natural Gas Development Project and is the final decision maker for disputes that may arise in the process. If any issue cannot be resolved, BIA will be the final decision-maker. The agencies agree that, once such disputes are resolved, they will not be revisited without the consent of the majority of the cooperating agencies and the BIA. However, agencies retain the right to comment on all issues related to the EIS, including those in dispute, through the normal NEPA process.
7. Veto or decision-making power does not accompany cooperating agency status. As the lead agency charged with carrying out the NEPA process under Section 102(2)(c) of NEPA, the BIA retains sole decision-making authority over the EIS and its process.
8. The BIA may terminate this agreement at any time by providing written notice of the termination to the other parties.

III. Authority

This memorandum is entered into under the following authorities:

- A. National Environmental Policy Act of 1969, as amended, PL 91-190, 42 U.S.C. 4321
- B. Council of Environmental Quality NEPA Regulations (40 CFR Parts 1500-1508)
- C. Indian Mineral Leasing Act (1982)
- D. 30 BIAM Supplement 1

IV. Procedure

1. The BIA is the lead agency for ensuring full compliance of the document with the requirements of NEPA. Under applicable laws, rules, regulations, and orders the BIA shall ensure that all necessary consultation and consideration is performed with all Federal, State, Local, and Tribal governments and private organizations.

2. The BIA will coordinate with the JBC, BLM, and Board and keep them informed of the progress on the EIS.
 3. The BIA will consult with the JBC, BLM, and Board throughout the preparation of the EIS, particularly during the scoping and the Draft EIS impact analysis. This consultation is to assess alternatives accurately; identify areas that require clarification; and to avoid, mitigate, or otherwise address impacts to the natural environment.
 4. The BIA has full responsibility for implementing procedures and regulations including, but not limited to public review of the EIS, public distribution of the EIS, and required decision documentation.
 5. The BIA will arrange, announce, and conduct scoping meetings and will analyze the results.
 6. The BIA, JBC, BLM, and Board will attend meetings with Federal, States Regional, and local agencies, other groups (e.g., all may participate in discussions on the proposed action and on special or critical resource needs) related to the plan.
 7. The BIA will provide copies of all correspondence to the JBC, BLM, and Board as it applies to their area(s) of expertise.
 8. Through consultation with the JBC, BLM, and the Board, the BIA is responsible for selection of the Preferred Alternative:
 9. BIA will document all telephone conversations regarding the EIS.
 10. The BIA contact shall be Ray Nation, Environmental Coordinator, Wind River Agency.
- B. The Joint Business Council, Shoshone and Arapahoe Tribes, The Bureau of Land Management, and the Board of Fremont County Commissioners.
1. The JBC is the Tribal contact, Stuart Cerovski is the BLM designated contact, and Douglas Thompson is the Board contact for the BIA on all matters relating to the preparation of the EIS.
 2. The JBC, the BLM, and Board shall provide responses for data requests and provide review comments to the BIA.
 3. The BLM may use environmental and other information developed by the Contractor for the purpose of NEPA compliance prior to issuing and/or approving applicable agreements.
 4. The JBC, BLM, and Board shall attend meetings and provide information for analysis as requested by the BIA.
 5. The JBC, BLM, and Board shall document all telephone conversations regarding the EIS. Copies of all telephone conversations, documentation, and

correspondence to and from the cooperating agencies pertaining to the EIS shall be provided to the BIA in a timely manner.

C. Process

1. The EIS Contractor will have primary responsibility for writing and rewriting all sections, parts, or chapters of the EIS and for reestablishing a schedule for completion of chapters consistent with the overall time schedule.
2. The BIA will provide the JBC, BLM, and Board with opportunities to review and comment on the preliminary Draft and Final EIS. The JBC, BLM, and Board will provide comments to the BIA within the overall time schedule.
3. The BIA will be the recipient of all comments on the EIS resulting from the review and comment periods.
4. Upon revision of the Draft EIS, the BIA, JBC, BLM, and Board will review the preliminary final EIS. The BIA will sign the EIS.
5. The BIA will be responsible for preparing the Record of Decision for BIA's approved decisions.

V. Administration

Modifications to this MOU may be proposed by the BIA, JBC, BLM, or Board and shall become effective upon the written approval of all parties. Changes to this MOU must be initialed and dated on each replacement page by an authorized agent of each party.

Any party may withdraw from this MOU after 30 days written notice of their intention to do so to the other parties.

Nothing in this agreement will be construed as limiting or affecting in any way the authority or responsibility of the BIA, JBC, BLM, or Board to perform within their authority.

This MOU will become effective upon the signature of all of its participants.

Approved

Ray Nation, Acting Superintendent
BIA, Wind River Agency

8/29/03
Date

Ed Womack
for Jack Kelley, Area Manager
BLM, Lander Field Office

8/26/03
Date

Burton Hutchinson, Sr., Chairman
Northern Arapahoe Business Council

8/20/03
Date

Vernon Hill, Chairman
Eastern Shoshone Business Council

8/20/03
Date

Douglas Thompson, Chairman
Board of Fremont County Commissioners

Date